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PAGE 01 BELGRA 04741 01 OF 03 201226Z

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

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LIMITED OFFICIAL USE SECTION 1 OF 3 BELGRADE 4741

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TAGS: EINV, YO

SUBJECT: NEW REGULATION ON FOREIGN INVESTMENT IN YUGOSLAVIA

REFS: (A) BELGRADE 4262; (B) BELGRADE 4348

1. SUMMARY. THIS MESSAGE PRESENTS SUMMARY OF KEY POINTS OF YUGOSLAV INVESTMENT POLICY, AND RESULTS THEREOF; THEN GIVES EMBASSY ANALYSIS OF NEW REGULATION ON FOREIGN INVESTMENT. SOME PARTS OF NEW REGULATION SIMPLY CODIFY EXISTING PRACTICES OR PROVIDE SAFEGUARDS FOR FOREIGN INVESTOR. HOWEVER, BULK OF REGULATION RESTRICTIVE. THUS CERTAIN KEY RIGHTS, WHICH ARE FUNDAMENTAL TO PROFITABILITY OF VENTURE, RESERVED EXCLUSIVELY TO WORKERS' COUNCIL, ON WHICH FOREIGN INVESTOR NOT RPT NOT REPRESENTED. OTHER PROVISIONS--E.G., RELATING TO TECHNOLOGY TRANSFER, UNRESTRICTED ACCESS TO MARKETS FOR JOINT VENTURE'S PRODUCTS AND IMPORTED EQUIPMENT COULD BE TROUBLESOME TO FOREIGN INVESTOR. CLEARLY NEGOTIATIONS WILL BE EVEN MORE DIFFICULT AND PROTRACTED THAN IN PAST, WITH GOY REASSERTING SUBSTANTIALLY ACTIVE ROLE AND WITH BUILT-IN OPPORTUNITIES FOR DELAYS AND DISPUTES.

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PAGE 02 BELGRA 04741 01 OF 03 201226Z

2. GOY INTENTION BEHIND REGULATION MAY BE MAINLY REASSERT AND ENFORCE EXISTING POLICY WHICH STRESSES THAT ONLY IMPORTANT REASONS FOR ALLOWING JOINT VENTURES ARE TECHNOLOGY ACQUISITION AND GENERATION OF EXPORTS IN LINE WITH DEVELOPMENT PLANS. YUGOSLAV ENTERPRISES BEING WARNED NOT TO SEEK INVESTMENT FOR OTHER REASONS, OR MAKE EXCESSIVE CONCESSIONS TO GET FOREIGN PARTNER; WHILE FOREIGN FIRMS BEING TOLD NOT TO OFFER ONLY HALF-LOAF OF TECHNOLOGY OR MARKETS. YUGOSLAV OFFICIALS CONTINUE TO ASSERT INTEREST IN FOREIGN INVESTMENT AND TO STRESS THAT JOINT VENTURE CONTRACTS CAN ALLOW CONSIDERABLE FLEXIBILITY. PROSPECTIVE FOREIGN INVESTORS, HOWEVER, MAY NOT TEST FLEXIBILITY, BUT SIMPLY STAY AWAY BECAUSE OF UNCERTAINTIES THAT NEW REGULATION INTRODUCES. REAL QUESTION EXISTS WHETHER MOST GOY POLICY-MAKERS RECOGNIZE INVESTMENT-INHIBITING EFFECT OF REGULATION. THUS, THOUGH THIS QUESTION DAWNING ON SOME HIGH OFFICIALS AND BUSINESS EXECUTIVES WITH WHOM EMBASSY HAS DISCUSSED THE REGULATION, WE ARE NOT SANGUINE THAT NEW LAW EXPECTED IN FEW MONTHS WILL EXCLUDE PROVISIONS ONEROUS TO FOREIGN INVESTORS. END SUMMARY.

A. YUGOSLAV INVESTMENT PROVISIONS PRIOR TO PASSAGE OF REGULATION

1. 1968 LAW, AMENDED IN 1973, ON FOREIGN INVESTMENT IN YUGOSLAVIA ENTERPRISES PERMITTED INVESTMENT IN MOST TYPES OF ACTIVITIES ALTHOUGH BANKING, COMMUNICATIONS, FOREIGN TRADE WERE MAJOR EXPLICIT EXCEPTIONS AND YUGOSLAVS AMBIVALENT ON INVESTMENTS TO EXPLOIT NATURAL RESOURCES. FOREIGN INVESTOR PERMITTED UP TO 49 PERCENT PARTICIPATION AND EQUAL REPRESENTATION ON MANAGEMENT BOARD OF JOINT VENTURE. FOREIGN INVESTOR PROFITS TAXED 14 TO 35 PERCENT, WHICH RATE SET BY REPUBLICS AND SUPPOSEDLY EQUATED TO COST OF NUMEROUS "SOCIAL CONTRIBUTIONS" LEVIED ONLY ON YUGOSLAV PARTNER. GUARANTEED PROFIT REPATRIATION LIMITED TO "PROFIT ALLOWANCE" EQUAL TO ONE-THIRD OF ANY HARD CURRENCY EARNINGS. ADDITIONAL REMITTANCES PERMITTED (BUT NOT GUARANTEED) FROM SEPARATE RETENTION QUOTA EQUAL TO 20 PERCENT HARD CURRENCY EARNINGS, IF ANY PART REMAINS FROM JOINT VENTURES' OTHER FOREIGN CURRENCY NEEDS. EXCEPT FOR RATE OF TAXATION, WHICH MAY BE CHANGED, YUGOSLAVIA GUARANTEES AGAINST DETERIORATION OF LIMITED OFFICIAL USE

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PAGE 03 BELGRA 04741 01 OF 03 201226Z

CONDITIONS PREVAILING UPON FEDERAL REGISTRATION WHICH, IF GRANTED, TANTAMOUNT TO OFFICIAL SEAL OF APPROVAL (OPIC IN-CONVERTIBILITY AND POLITICAL RISK GUARANTEES ALSO AVAILABLE TO U.S. FIRMS.)

B. YUGOSLAV INVESTMENT POLICY, ENTERPRISE VIEWS

2. GOVERNMENT AND ENTERPRISES ALIKE HAVE SEEN FOREIGN

INVESTMENT AS REDUCING RISK OF ENTERPRISE BEING SADDLED WITH IMPORTED PRODUCTION PROCESS WHICH EITHER INFERIOR TO LATEST WESTERN STANDARDS OR SUPERIOR TO YUGOSLAV CAPABILITY. UNTIL RECENTLY, YUGOSLAVS HAVE EXTOLLED JOINT VENTURES AS FORM OF INTERNATIONAL BUSINESS COOPERATION MOST DESIRABLE FOR THEIR ECONOMIC DEVELOPMENT. OFFICIAL VOICES MAINLY JUSTIFY FOREIGN INVESTMENT FOR TWO DEVELOPMENTAL GOALS: (A) ACQUISITION OF TECHNOLOGY SUPPORTED BY ADEQUATE KNOW-HOW, AND (B) EXPANSION OF YUGOSLAV EXPORTS. INFUSION OF CAPITAL IS SECONDARY GOAL. IMPORT SUBSTITUTION, IMPROVEMENT OF MANAGEMENT, AND DEVELOPMENT OF BETTER MARKETING OR DISTRIBUTION TECHNIQUES ARE REGARDED AS INCIDENTAL BENEFITS. IN FACT, METHOD FAVORED BY GOVERNMENT AND ENTERPRISES TO EXPAND EXPORTS IS TO PLACE RESPONSIBILITY ON FOREIGN PARTNER.

3. MANY ENTERPRISES, HOWEVER, HAVE BEEN KEENLY INTERESTED IN ATTRACTING FOREIGN CAPITAL AND MANAGEMENT EXPERTISE. FOR ONE THING, AN IMMEDIATE PREOCCUPATION HAS BEEN GENERATING EMPLOYMENT, WHICH JOINT VENTURES HAVE DONE. ENTERPRISES HAVE BEEN LESS CONCERNED THAN POLICY-MAKERS OVER EXPORTS WHEN FOREIGN PARTNERS HAVE NOT INSISTED ON THEM (SOME HAVE NOT).

4. ENTERPRISES HAVE BEEN ENLISTING SUPPORT OF LOCAL AND REPUBLICAN GOVERNMENTS TO GAIN MOMENTUM FOR ROUTINE FEDERAL REGISTRATION OF JOINT VENTURES WHICH AFFORD THESE ADVANTAGES.

C. RESULTS AND REACTION

5. SINCE 1968 OVER 100 JOINT VENTURES HAVE BEEN CONCLUDED, WITH COMBINED YUGOSLAV AND FOREIGN INVESTMENT EXCEEDING ONE BILLION DOLLARS IN THE EMBASSY'S ESTIMATE (THE YUGOSLAVS

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PAGE 01 BELGRA 04741 02 OF 03 201240Z

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LIMITED OFFICIAL USE SECTION 2 OF 3 BELGRADE 4741

HAVE NOT RELEASED FIGURES AFTER LATE 1973). OUR ESTIMATE INCLUDES 17 U.S. INVESTMENTS, MOSTLY MADE AFTER OPIC COVERAGE BECAME AVAILABLE IN 1973. IN ADDITION, A MULTI-MILLION DOLLAR PETROCHEMICAL DEVELOPMENT, THE LARGEST JOINT VENTURE THUS FAR, HAS BEEN NEGOTIATED BETWEEN DOW AND INA, BUT NOT YET REGISTERED. THE DOW/INA AGREEMENT AND ITS HANDLING COULD HAVE A DEMONSTRATION EFFECT ON OTHER PROSPECTIVE INVESTORS. IN ANY EVENT, OTHER U.S. FIRMS ARE SERIOUSLY NEGOTIATING JOINT VENTURES WHOSE TOTAL VALUE WOULD EASILY EXCEED \$250 MILLION.

6. YUGOSLAVS HAVE USED SEVERAL ARGUMENTS TO ALLAY CONCERNS OF PROSPECTIVE INVESTORS. THEY STRESS THAT POLITICAL STABILITY WILL CONTINUE AFTER TITO, AND AS "EVIDENCE" OF CONTINUING BENIGN ATTITUDE TOWARD FOREIGN INVESTMENT CITE CONSTITUTIONAL AND LEGAL GUARANTEES AGAINST DETERIORATION OF INVESTMENT LAW PERMITS CONSIDERABLE FLEXIBILITY TO TAILOR JOING VENTURE CONTRACTS TO INDIVIDUAL CIRCUMSTANCES.

7. FOREIGN FIRMS CONCERNED OVER POWER OF WORKERS COUNCILS ARE TOLD THAT COUNCILS WILLING DELEGATE CONSIDERABLE AUTHORITY TO JOINT MANAGEMENT BOARD WHICH, IF SO STIPULATED LIMITED OFFICIAL USE

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PAGE 02 BELGRA 04741 02 OF 03 201240Z

IN JOINT VENTURE CONTRACT, MUST MAKE IMPORTANT DECISIONS BY MAJORITY VOTE. THUS, THOUGH FOREIGN FIRM CANNOT IMPOSE WILL ON JOINT VENTURE PARTNERS, IT CAN AT LEAST RETAIN VETO POWER.

8. FACT REMAINS THAT IMPEDIMENTS EXIST TO INVESTMENT. PROSPECTIVE INVESTORS HAVE BEEN TURNED AWAY BY LINKAGE OF PROFIT REPATRIATION TO EXPORTS, AND, EVEN WHEN VENTURE EXPORT ORIENTED, BY LIMIT IMPOSED ON REPATRIATION. ACTUAL INVESTORS WHO WOULD BE SATISFIED WITH REINVESTMENT OF DINAR EARNINGS HAVE FOUND THIS DIFFICULT, ALTHOUGH TAX BREAKS ARE OFFERED AS AN INDUCEMENT TO REINVEST. INVESTORS HAVE FOUND MOST WORKERS COUNCILS COOPERATIVE, BUT SOME INTRACTABLE. FINALLY, WHILE INVESTMENT LAW COUCHED IN GENERALITIES AND THUS MAY AFFORD FLEXIBILITY, MISUNDERSTANDINGS HAVE OCCURRED WHEN FOREIGN INVESTORS HAVE NEGLACTED TO SPECIFY MINUTE DETAIL IN JOING VENTURE CONTRACTS.

9. YUGOSLAV POLICY MAKERS HAVE BEEN DISAPPOINTED OVER

RESULTS OF FOREIGN INVESTMENT IN THEIR ENTERPRISES. TOTAL VALUE OF ACTUAL AND COMMITTED JOINT VENTURES APPEARS DECENTLY IMPRESSIVE, BUT OVERALL FIGURE CONCEALS FACT THAT MOST INVESTMENTS HAVE BEEN RATHER SMALL.

10. FURTHERMORE, ACTUAL FOREIGN PARTICIPATION PROBABLY DOES NOT EXCEED 20 PERCENT OF TOTAL VALUE OF JOINT VENTURES. THOUGH YUGOSLAVS DISCOUNT NEED FOR DIRECT FOREIGN CAPITAL INVESTMENT, THEY REGARD LOW PERCENTAGE OF PARTICIPATION AS EVIDENCE OF LACK OF INVESTOR INTEREST. ONE REASON, HOWEVER, FOR LOW EQUITY PARTICIPATION HAS BEEN INSISTENCE OF SOME ENTERPRISES THAT FOREIGN CONTRACTORS MAKE MODEST INVESTMENT AND PARTICIPATE IN OPERATIONS OF SEVERAL JOINT VENTURES WHICH NOT MUCH MORE THAN TURN-KEY PROJECTS. POLICY-MAKERS DO NOT ASSIGN MUCH VALUE TO ACQUIRED MANAGEMENT SKILLS. THEY INSTEAD CARP THAT MANY FOREIGN INVESTORS PROVIDE INSUFFICIENT TECHNOLOGY AND THAT A FEW HAVE USED JOINT VENTURE ARRANGEMENTS AS OPPORTUNITY TO DUMP OUT-OF-DATE EQUIPMENT, OR GAIN A CORNER ON YUGOSLAV MARKET FOR IMPORTS.

11. MANY YUGOSLAV OFFICIALS ALSO RECOGNIZE THE IMPEDIMENTS WHICH DISCOURAGE FOREIGN INVESTMENT. EMBASSY HAS OFTEN BEEN TOLD IN PAST TWO YEARS THAT PROVISIONS ON PROFIT REPATRIATION LIMITED OFFICIAL USE

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PAGE 03 BELGRA 04741 02 OF 03 201240Z

WOULD BE EASED. AS RECENTLY AS APRIL, YUGOSLAV REPRESENTATIVES ABROAD WERE BELIEFED ON NEW "FLEXIBILITY" THAT WOULD BE ALLOWED ON REPATRIATION. SINCE THEN, HOWEVER, THERE HAS BEEN INCREASING CRITICISM OF ABUSES COMMITTED BY YUGOSLAV AND FOREIGN PARTICIPANTS IN JOINT VENTURES. THERE HAS BEEN TALK THAT YUGOSLAVS HAVE CONCEDED TOO MUCH TO FOREIGN INVESTORS. OBSERVATIONS HAVE BEEN MADE BY THE GOVERNMENT ON THE DOW-INA CONTRACT WHICH STILL HAS NOT BEEN REGISTERED. WE HAVE MORE FREQUENTLY THAN BEFORE HEARD THE POINT THAT JOINT VENTURES WILL BE SCRUTINIZED MORE CLOSELY FOR CONFORMITY WITH POLICY. IT IS THIS VIEW, RATHER THAN A WISH TO LIBERALIZE INVESTMENT CONDITIONS, WHICH SEEMS TO PREVAIL IN THE NEW REGULATION.

D. THE NEW REGULATION

12. SOME PARTS OF THE NEW REGULATION SEEM SIMPLY TO CODIFY EXISTING PRACTICE. THUS, ARTICLE 1 REQUIRES THAT CONTRACT INCLUDE PROVISIONS THAT EXPORTS BE LARGE ENOUGH TO COVER REPATRIATION OF PROFITS AND, EVENTUALLY, CAPITAL. EXISTING LAW MADE CLEAR THAT FOREIGN CURRENCY EARNINGS WERE TO BE SOURCE FOR PROFIT AND EVENTUAL CAPITAL REPATRIATION. REQUIRING CONTRACT PROVISION TO THAT EFFECT COULD BE EVEN HELPFUL TO FOREIGN PARTNER IN CALLING ATTENTION TO THIS REQUIREMENT.

13. OTHER PROVISIONS COULD WELL PROVE ACCEPTABLE TO FOREIGN INVESTOR. THUS, ARTICLE SIX, PLACING A REPORTING REQUIREMENT ON THE YUGOSLAV PARTNER NOT LIKELY TO PROVE DIFFICULT FOR PTOENTIAL FOREIGN JOINT VENTURERS. INDEED, BY SCREENING OUT AT EARLIER STAGE THOSE JOINT VENTURES WHICH GOY NOT PREPARED TO ACCEPT, FOREIGN PARTNER WILL HAVE ADVANTAGE OF KNOWING THAT (AT LEAST IN PRINCIPLE) JOINT VENTURE ACCEPTABLE TO GOY.

14. HOWEVER, MANY OF INDIVIDUAL REQUIREMENTS PRESENT THICKET OF DIFFICULTIES FOR FOREIGN PARTNER. WE SEE SEVERAL ASPECTS TO THIS:

(A) CLEARLY NEGOTIATIONS WILL BE MORE DIFFICULT AND PROTRACTED THAN IN PAST, WITH SUBSTANTIALLY ACTIVE ROLE REASSERTED BY GOY AND BUILT-IN OPPORTUNITIES FOR DELAYS AND DISPUTES. THUS INVESTOR WHO PLANS LIMITED OFFICIAL USE

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PAGE 04 BELGRA 04741 02 OF 03 201240Z

TO MAKE PART OF HIS INVESTMENT IN FORM OF EQUIPMENT HAS TO ESTABLISH THAT EQUIPMENT NOT MANUFACTURED IN YUGOSLAVIA (ART. 2) OR THAT LOCALLY MADE EQUIPMENT NOT UP TO REQUIRED QUALITY AND STANDARD. AT

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PAGE 01 BELGRA 04741 03 OF 03 201244Z

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LIMITED OFFICIAL USE SECTION 3 OF 3 BELGRADE 4741

MINIMUM, THIS WILL SLOW DOWN NEGOTIATIONS IF THERE ANY QUESTIONS AT ALL ABOUT AVAILABILITY OF YUGOSLAV-MADE GOODS. AT MAXIMUM, IT MAY FRUSTRATE OTHER WISE ACCEPTABLE DEAL. REQUIREMENT IN ARTICLE 3 (2), APART FROM VAGUENESS OF WORDING AND CONCEPT, ALSO SEEMS ENVISAGE ROLE FOR GOY AT LEAST IN CHECKING VALIDITY OF PROJECTED SALES FIGURES. SIMILARLY, WHO BUT GOY IS TO DETERMINE THAT RESTRICTIONS ON EXPORT MARKETS ARE "HARMFUL TO YUGOSLAV ECONOMY" (ART. 4). FINALLY, AT MINIMUM, FIVE FEDERAL GOVERNMENT MINISTRIES OR INSTITUTIONS HAVE ROLE IN SCREENING JOINT VENTURE CONTRACTS FOR THEIR CONSISTENCY WITH YUGOSLAV POLICY PRIOR TO THEIR REGISTRATION, YUGOSLAV BUREAUCRACY NOT NOTED FOR ITS SPEED IN HANDLING PAPERWORK.

(B) SOME OF THE PROVISIONS SEEM TOTALLY UNACCEPTABLE TO POTENTIAL FOREIGN PARTNER. ARTICLE 5 IN PARTICULAR WOULD SEEM DIFFICULT TO SWALLOW, WITH SOME KEY RIGHTS FUNDAMENTAL TO THE PROFITABILITY OF THE VENTURE SWITCHED OVER FROM THE MANAGEMENT BOARD (ON WHICH FOREIGN PARTNER REPRESENTED) TO WORKERS COUNCIL (ON WHICH FOREIGN PARTNER NOT REPRESENTED).

(C) PROVISIONS ON SHARING OF TECHNOLOGY, LIMITATIONS IN LIMITED OFFICIAL USE

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PAGE 02 BELGRA 04741 03 OF 03 201244Z

SALES TERRITORY, LIMITATION ON AMOUNT OF INVESTMENT IN FORM OF EQUIPMENT MAY OR MAY NOT PROVE ACCEPTABLE TO PROSPECTIVE INVESTORS DEPENDING ON COMPANY POLICY, ITS OWN EXPORT NEEDS, ETC. AT THE VERY LEAST, HOWEVER, ALL THESE MATTERS WILL REQUIRE VERY CAREFUL THOUGHT.

E. MOTIVES AND EFFECT.

15. IT APPEARS THAT THE NEW REGULATION WAS PASSED MAINLY TO REAFFIRM POLICY ON FOREIGN INVESTMENT, I.E., THAT ACQUISITION OF TECHNOLOGY AND GENERATION OF EXPORTS ARE THE ONLY IMPORTANT REASONS FOR ALLOWING JOINT VENTURES.

16. YUGOSLAV ENTERPRISES APPEAR TO BE THE PRINCIPAL TARGET OF THE REGULATION. IMPLICITLY THEY ARE BEING TOLD TO ENSURE THAT JOINT VENTURES SUPPORT NATIONAL AND REPUBLICAN DEVELOPMENT PLANS, TO SEEK JOINT VENTURES FOR THE SAKE OF TECHNOLOGY AND EXPORTS RATHER THAN OTHER MOTIVES, AND TO AVOID MAKING EXCESSIVE CONCESSIONS JUST FOR THE SAKE OF ATTRACTING A FOREIGN PARTNER.

17. THE ENTERPRISES ARE ALSO BEING WARNED THAT, TO PREVENT

ABUSES, THE FEDERAL GOVERNMENT WILL REASSERT AND APPLY MORE CAREFULLY THE CONTROL IT HAS ALWAYS HAD TO APPROVE OR DISAPPROVE JOINT VENTURE CONTRACTS. WITH THE PROVISION REQUIREING EARLY NOTIFICATION, THE GOVERNMENT IS ANNOUNCING ITS DETERMINATION TO TURN OFF UNWANTED JOING VENTURE NEGOTIATIONS BEFORE THEY GATHER UNSTOPPABLE MOMENTUM.

18. FOREIGN FIRMS ARE ANOTHER TARGET OF THE REGULATION. THEY, TOO, ARE REMINDED OF THE GOY ATTITUDE ON FOREIGN INVESTMENT AND ARE BEING TOLD NOT TO OFFER YUGOSLAV ENTERPRISES HALF LOAF OF TECHNOLOGY OR MARKETS. ON THE OTHER HAND, THEY ARE GIVECN THE OPPORTUNITY TO OBTAIN FAIRLY EARLY OFFICIAL REACTION THROUGH THEIR YUGOSLAV PARTNER ON THE JOINT VENTURE PROPOSAL.

19. WITH ITS LIMITATION ON FOREIGN EQUIPMENT FOR JOINING VENTURES, THE NEW REGULATION INCORPORATES PROTECTIONISM WHICH HAS APPEARED IN RECENT IMPORT RESTRAINTS AND SELF-MANAGEMENT PROCEDURES ON PURCHASE OF FOREIGN EQUIPMENT.

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PAGE 03 BELGRA 04741 03 OF 03 201244Z

20. ALTHOUGH INTENTION OF REGULATION MAY BE LIMITED TO REAFFIRMING POLICY, WE SEE MEASURE AS QUITE RESTRICTIVE AS A WHOLE EVEN IF GOY DOES NOT INTEND REGULATION TO HAVE THAT EFFECT AT ALL; AND INDEED MAY BE PREPARED ADMINISTER IT FELEXIBLY. LIKE MOST YUGOSLAV REGUALATIONS, LANGUAGE IS VAGUE AND AMBIGUOUS ENOUGH TO PERMIT SEVERAL INTERPRETATIONS. HOWEVER, ITS VERY EXISTENCE, AND RECONGITION THAT ADDITIONAL COMPLICATIONS HAVE BEEN ADDED TO INVESTING IN AN UNFAMILIAR AND SOMEWHAT STRANGE ENVIRONMENT, COULD WELL TIP THE BALANCE FOR MOST, IF NOT ALL PROSPECTIVE INVESTORS. A POINT-BY-POINT DISCUSSION OF NEW REGULATION WITH YUGOSLAV LAWYER SPECIALIZED IN JOINING VENTURE NEGOTIATIONS REVEALED SIMILAR ASSESSMENT OF RESTRICTIVE NATURE AND DAPENING EFFECT ON INVESTMENT.

F. WHAT NEXT?

21. SHOULD BE STRESSED THAT REGULATION IS PROVISIONAL IN SENSE THAT IT WILL BE REPLACED BY NEW SYSTEMS LAW ON INVESTMENTS EXPECTED TO BE PASSED BY END OF YEAR. STILL UNDER DISCUSSION ARE PROVISIONS ON PROFIT REPATRIATION. THOUGH IN THE MINORITY, VOICES ARE STILL HEARD THAT CURRENT PROVISIONS SHOULD BE MADE MORE LIBERAL; A CONTRASTING VIEW IS THAT THE RENTENTION QUOTA SHOULD BE ELIVNATED AS A SUPPLEMENTARY SOURCE OF PROFIT REPATRIATION (THIS WOULD BE DONE UNDER ANTICIPATED NEW FOREIGN EXCHANGE LAW). HOWEVER REAL THRUST IS THAT THE YUGOSLAVS WOULD CONSIDER SPECIAL TREATMENT FOR JOINT VENTURES OF REAL INTEREST. A HIGH OFFICIAL RECENTLY CONFIDED THAT IN SELECT INSTANCES THE GOY WOULD BE PREPARED TO WAIVE EXPORT CONTROLS FOR A JOINT VENTURE TO SELL ABROAD AS MUCH AS FOREIGN PARTNER NEEDS

TO REPATRIATE PROFITS. THE SAME OFFICIAL DISCOUNTED PROSPECT THAT IMPORT SUBSTITUTION COULD BE USED AS GROUND TO AUTHORIZE PROFIT REPATRIATION, BUT HE TOOK CARE TO OUTLINE HOW FOREIGN INVESTOR COULD UNDER DOMESTIC INDUSTRIAL COOPERATION AGREEMENT REPATRIATE PROFITS IF JOINT VENTURE WERE TO PRODUCE COMPONENTS PLACED IN PRODUCTS EXPORTED BY ANOTHER ENTERPRISE.

22. MOVE SEEMS UNDERWAY TO RESTRUCTURE JOINT VENTURES LIKE DOMESTIC ENTERPRISES. TAXES WOULD BE ASSESSED BEFORE THE DIVISION OF EARNINGS BETWEEN PARTNERS. THIS PROSPECT WOULD NOT WORK TO THE ADVANTAGE OF THE FOREIGN INVESTOR BECAUSE HE WOULD BE SUBJECT DIRECTLY TO "SOCIAL CONTRIBUTIONS" FOR EDUCATION, LIMITED OFFICIAL USE

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PAGE 04 BELGRA 04741 03 OF 03 201244Z

RELIEF OF AILING FIRMS AND OTHER PURPOSES WHICH ARE IMPOSED WITHOUT WARNING ON DOMESTIC ENTERPRISES. FOREIGN REPRESENTATION ON MANAGEMENT BOARD MIGHT BE LIMITED TO PERCENTAGE OF PARTICIPATION.

23 A MORE CHILLING QUESTION IS WHETHER GOY, CONTRARY TO ITS FIRM GUARANTEES, MAY ATTEMPT TO PERSUADE FOREIGN FIRMS TO RENEGOTIATE EXISTING JOING VENTURE CONTRACTS TO BRING THEM IN LINE WITH NEW LEGAL REQUIREMENTS. SEVERAL GERMAN INVESTORS IN FACT A T A RECENT MEETING OF THE YUGOSLAV/GERMAN MIXED COMMISSION WERE TOLD THAT THEY SHOULD ELIMINATE MARKETING RESTRICTIONS FORM THEIR CONTRACTS. WHEN GERMAN EMBASSY OFFICER PROTESTED THAT THIS WOULD BE CONTRARY TO GUARANTEES, HIGH YUGOSLAV OFFICIAL REPLIED THAT GOY WOULD NOT FORCE THE ISSUE BUT GERMAN INVESTORS WOULD FIND IT IN THEIR BEST INTERESTS TO RENEGOTIATE; GOY OFFICIAL ADDED THAT IF GERMAN FIRMS DID NOT LIKE THE IDEA, THEY COULD PULL OUT.

24. DESPITE DISCUSSION UNDERWAY OF POSSIBLE FURTHER RESTRICTIVE MEASURES GOY OFFICIALS CONTINUE TO ASSURE U.S. THAT YUGOSLAVS WISH TO CONTINUE TO ENCOURAGE WESTERN INVESTMENT, PARTICULARLY IN LARGE VENTURES. ONE POLITICAL FIGURE EXPRESSED SURPRISE AT OUR CONCERN OVER INVESTMENT-INHIBITING POTENTIAL OF NEW MEASURE. THERE WOULD APPEAR TO BE REAL QUESTION OF WHETHER THE YUGOSLAVS REALIZE EXTENT TO WHICH NEW REGULATION COULD DISCOURAGE FOREIGN INVESTMENT. ONE WELL-PLACED YUGOSLAV BANKER INTIMATED THAT THE REGULATION IS A TRAIL BALLOON WHICH WOULD BE SCRAPPED IF IT INHIBITED INVESTMENT. EMBASSY, HOWEEVER, CANNOT BE SANGUINE THAT NEW MEASURE WILL DISAPPEAR AS QUICKLY AS IT HAS BEEN INTRODUCED. SILBERMAN

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